



MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT *We strive to be caring, professional and fair*

To: Monroe County Planning Commission

From: Mitchell N. Harvey, AICP, Comprehensive Planning Manager *MNH*

Through: Townsley Schwab, Acting Director of Planning & Environmental Resources *TS*

Date: July 11, 2008

Subject: *Request for an Amendment to Policy 102.8.5 of the Monroe County Year 2010 Comprehensive Plan*

Meeting: July 23, 2008

I REQUEST

In response to direction by the Board of County Commissioner on June 18, 2008, the Growth Management Division is requesting to amend the Monroe County Year 2010 Comprehensive Plan to allow the provision of wastewater service to properties located within the Coastal Barrier Resources System Overlay District. This will give Monroe County the ability to more closely comply with the State requirement to provide centralized sewer services throughout the Florida Keys by July 1, 2010.

Policy 102.8.5 of the Monroe County Year 2010 Comprehensive Plan is proposed to be amended to include the following:

Monroe County shall initiate efforts to discourage the extension of facilities and services provided by the Florida Keys Aqueduct Authority and private providers of electricity and telephone service to CBRs **units, excluding wastewater service.**

II PROCESS

Amendments to the Goals, Objectives, and Policies of the Comprehensive Plan may be proposed by the Board of County Commissioners (BOCC), the Planning Commission or the Director of Planning. The Director of Planning shall review and process amendments and pass them on to the Development Review Committee and the Planning Commission for recommendation and final approval by the BOCC.

The Planning Commission and the BOCC shall each hold at least one public hearing on a proposed amendment. The Planning Commission shall review the amendment, the reports and recommendations of the Department of Planning & Environmental Resources and the

1 Development Review Committee, and the testimony given at the public hearing, and shall
2 submit its recommendations and findings to the BOCC. The BOCC shall consider the staff
3 report, recommendation, and testimony given at the public hearings and may either deny the
4 application or adopt or not adopt a resolution transmitting the proposed amendment to the
5 DCA. Amendments are then reviewed by the Florida Department of Community Affairs and
6 returned to the County with objections, rejections and comments to be considered prior to
7 adoption of the ordinance. Then, an adoption hearing is scheduled for the BOCC.
8

9 III RELEVANT PRIOR COUNTY ACTIONS

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11 June 2000 – BOCC approved the Monroe County Wastewater Management Plan;
12 December 19, 2001 – BOCC approved Ordinance 043-2001 amending the Monroe County Land
13 Development Regulations to include Section 9.5-258, thereby establishing the Coastal Barrier
14 Resources System Overlay;
15 April 16, 2008 – BOCC approved the expansion of the Sumerland/Cudjoe/Sugarloaf Regional
16 Wastewater System to cover design for Big Pine Key and Lower Sugarloaf Key;
17 May 21, 2008 – BOCC approved central sanitary wastewater service to the property owners of
18 No Name Key through inclusion of the area in the Lower Keys Regional Service Area
19 wastewater treatment and collection system.
20 June 18, 2008 – BOCC discussed an item to direct staff to amend Section 9.5-258 Coastal
21 Barrier Resources System Overlay District of the Monroe County Code to eliminate the
22 prohibition of the establishment of central wastewater treatment collection systems and utilities
23 for no Name Key. Following public discussion, the BOCC approved a motion that the
24 prohibition of utilities is reworded such that the focus and priority be placed on wastewater first
25 and any discussion of electric or any other utility is deferred until the wastewater goal is
26 accomplished. The Board directed staff to amend the Land Development Regulations and the
27 Comprehensive Plan.
28 June 18, 2008 – BOCC approved a resolution to remove the developed residential area the
29 unrecorded plat on the east end of No Name Key, otherwise originally known as “Islands End”
30 from the Coastal Barrier Resource System.
31

32 IV REVIEW OF APPLICATION

33 34 A. *Consistency of the proposed amendment with the provisions and intent of the Monroe* 35 *County Year 2010 Comprehensive Plan:*

36
37 Existing Policy 102.8.5 discourages the extension of utilities within the Coastal Barrier
38 Resources System Overlay District. The proposed amendment to the Monroe County
39 Land Development Regulations clarifies the intent of Monroe County to provide
40 centralized wastewater service throughout the unincorporated area by July 1, 2010 as
41 mandated by the Chapter 99-395, Laws of Florida. An amendment to Section 9.5-258(b)
42 of the Monroe County Code is being considered concurrently with the proposed
43 amendment. to the Comprehensive Plan.
44

45 B. *Consistency of the proposed amendment with the provisions and intent of Chapter 9.5 of* 46 *the Monroe County, Land Development Regulations:*

1
2 In accordance with MCC Sec. 9.5-511(d)(5)b., the BOCC may consider the adoption of
3 an ordinance enacting the proposed change based on one (1) or more of the following
4 factors:

- 5
6 i. Changed projections (e.g., regarding public service needs) from those on which the
7 text or boundary was based:

8
9 None.

- 10
11 ii. Changed assumptions (e.g., regarding demographic trends):

12
13 None.

- 14
15 iii. Data errors, including errors in mapping, vegetative types and natural features
16 described in Volume 1 of the Monroe County Year 2010 Comprehensive Plan:

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18 None.

- 19
20 iv. New issues;

21
22 In order to improve near shore water quality, the State of Florida requires the
23 provision of centralized wastewater service to eliminate sewage disposal surface
24 water discharges within Monroe County by the July 1, 2010 (Chapter 99-395, Section
25 6, Laws of Florida). On June 18, 2008, the BOCC directed staff to amend the
26 Comprehensive Plan and Land Development Regulations to allow wastewater service
27 within the Coastal Barrier Resources System Overlay District. An amendment to
28 Policy 102.8.5 of the Monroe County Year 2010 Comprehensive Plan is concurrently
29 being considered to allow wastewater service within the Coastal Barrier Resources
30 System Overlay District. Provision of wastewater service within the coastal areas of
31 Monroe County will further the mandate of the State to improve near shore water
32 quality through the elimination of sewage disposal surface water discharges.

- 33
34 v. Recognition of a need for additional detail or comprehensiveness:

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36 The proposed amendment clarifies the necessity to provide centralized wastewater
37 service within Monroe County, which includes the Coastal Barrier Resources System
38 Overlay District.

- 39
40 vi. Data updates:

41
42 None.

43
44 C. *Consistency with the Principles for Guiding Development in the Florida Keys Area of*
45 *Critical State Concern:*
46

1 All land development regulations enacted, amended or rescinded within a area of critical
2 state concern must be consistent with the Principles for Guiding Development, Section
3 380.0552(7), Florida Statutes. The proposed GOP amendment promotes and furthers the
4 following Principles in Section 380.0552(7):
5

- 6 i. To strengthen local government capabilities for managing land use and
7 development so that local government is able to achieve these
8 objectives without the continuation of the area of critical state concern
9 designation.

10
11 The proposed amendment strengthens Monroe County's ability to
12 provide centralized wastewater service to existing and future land uses
13 within the unincorporated area. Growth controls presently in place, such
14 as the Residential Rate of Growth Ordinance (ROGO) and Non-
15 residential Rate of Growth Ordinance (NROGO), effectively moderates
16 how much new development will occur within Monroe County.
17

18 One focus of the Area of Critical State Concern program was
19 environmental protection. The associated ACSC work program
20 supports the efforts by Monroe County to improve near shore water
21 quality by developing and implementing centralized wastewater and
22 storm water management plans.
23

- 24 ii. To protect shoreline and marine resources including mangroves, coral
25 reef formations, seagrass beds, wetlands, fish and wildlife, and their
26 habitat.
27

28 The provision of centralized wastewater service will improve near shore
29 water quality, enhancing the Florida Key's unique shoreline marine
30 habitats which include mangroves, coral reefs, and seagrass beds,
31

- 32 iii. To ensure the maximum well-being of the Florida Keys and its citizens
33 through sound economic development.
34

35 Centralized wastewater service is an essential component of residential
36 and nonresidential development, reducing the incidence of near shore
37 water pollution that affects the well-being of both Florida Keys citizens
38 and its tourist visitors who are an essential supporter of the local
39 economy. Eco-Tourism has long been an economic driver within
40 Monroe County and the Florida Keys. Maintaining the health of near
41 shore habitat is consequently a high priority to the Florida Keys and its
42 citizens.
43

- 44 iv. To limit the adverse impacts of development on the quality of water
45 throughout the Florida Keys.
46

1 The provision of centralized wastewater service will improve near shore
2 water quality through the elimination of septic hot spots and the use of
3 uncontrolled individual septic systems whose contaminants leach into
4 the adjacent near shore waters.
5

- 6 v. To protect the value, efficiency, cost-effectiveness, and amortized life
7 of existing and proposed major public investments, including sewage
8 collection and disposal facilities.
9

10 The proposed amendment will give the Florida Keys Aqueduct
11 Authority the ability to design, construct, and maintain centralized
12 wastewater service throughout the Monroe County unincorporated area.
13 Economies of scale are extremely important to public utilities in our
14 current budgetary environment. Limitations on the expansion of
15 wastewater services are prohibiting economies of scale. Allowing
16 additional users to access the proposed centralized wastewater system
17 will promote lower user fees. The present Coastal Barrier Resource
18 System Overlay District limits our ability to do this.
19

- 20 vi. To protect the public health, safety, and welfare of the citizens of the
21 Florida Keys and maintain the Florida Keys as a unique Florida
22 Resource.
23

24 The maintenance of near shore water quality is an essential element of
25 the Florida Keys. Pollution of the Keys' aquatic habitat can result in the
26 permanent degradation and destruction of the Florida Keys' unique
27 marine resources. Near shore water pollution has resulted in the
28 periodic closing of public beaches and promotes algae growth that
29 destroys coral reefs that are unique to the Florida Keys. Implementation
30 of a County-wide centralized wastewater system will significantly
31 reduce the level of near shore pollution resulting from individual septic
32 systems through protecting public health, safety and welfare as well as
33 our most important resource.
34

35 *D. Impact on Community Character:*
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37 The proposed amendment will allow existing and future land uses located within Coastal
38 Barrier Resources System Overlay to be served by centralized wastewater service, to
39 promote, improve and protect near shore water quality. Monroe County presently
40 maintains several unique land use controls, such as the Tier System, Rate of Growth
41 Ordinance (ROGO), Nonresidential Rate of Growth Ordinance (NROGO), and the
42 Incidental Take Permit (ITP, 6/9/96). It is anticipated that the proposed amendment will
43 not affect the rate of new growth in Monroe County. However, the proposed amendment
44 will insure that as growth proceeds within the context of these regulations, centralized
45 wastewater service will be available concurrent with the impact of existing land uses and
46 new development. No changes in land use density, intensity or community character is

1 anticipated as a result of the proposed amendment. This amendment will result in the
2 enhancement of near shore water quality, which will in turn promote a more sustainable
3 shoreline and near shore aquatic environment.
4
5

6 **V FINDINGS OF FACT**
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8 1. The Coastal Barrier Resources Act (CBRA) of 1982 established the Coastal Barrier
9 Resources System (CBRS) to restrict the federally subsidized development of coastal barrier
10 areas and specifically prohibited the "construction or purchase of any structure,
11 appurtenance, facility, or related infrastructure" 16 U.S.C. 3504(a)(1) in said areas.
12

13 2. Monroe County has 15 designated units of the CBRS which can be found listed in Table
14 3.21 of the Monroe County Year 2010 Comprehensive Plan Technical Document and
15 illustrated on the Existing Land Use Maps of the Comprehensive Plan Map Atlas.
16

17 3. Objective 102.8 of Monroe County Year 2010 Comprehensive Plan states: "Monroe
18 County shall take actions to discourage private development in areas designated as units of
19 the Coastal Barrier Resources System.
20

21 4. Policy 102.8.5 of Monroe County Year 2010 Comprehensive Plan states: "Upon adoption
22 of the Comprehensive Plan, Monroe County shall initiate efforts to discourage the extension
23 of facilities and services provided by the Florida Keys Aqueduct Authority and private
24 providers of electricity and telephone services to CBRS units".
25

26 5. Current Flood Insurance Rate Maps published for the National Flood Insurance Program
27 by the Federal Emergency Management Agency, indicate there are five developed residential
28 areas (with five structures or less per acre) and one commercial area that fall within the
29 CBRS designation; and
30

31 6. On December 18, 2001, the Board of County Commissioners adopted Ordinance No. 043-
32 2001, creating Section 9.5-258 of the Monroe County Code which established a Coastal
33 Barrier Resources System Overlay District, the purpose of which is to implement the policies
34 of the comprehensive plan by prohibiting the extension and expansion of specific types of
35 public utilities to or through lands designated as a unit of the Coastal Barrier Resources
36 System.
37

38 7. Pursuant to Chapter 99-395, Laws of Florida, Monroe County has been mandated by the
39 State of Florida to provide a centralized sewer system by July 1, 2010 as a means of
40 improving near shore water quality within the Florida Keys.
41

42 8. On June 18, 2008, the Growth Management Staff was directed by the Board of County
43 Commissioners to amend the comprehensive plan and land development regulations to
44 reword the prohibition on utilities such that the focus and priority be placed on wastewater
45 first and any discussion of electric or any other utility be deferred until the wastewater goal is
46 accomplished.

1
2 VI CONCLUSIONS OF LAW
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- 4 1. The proposed amendment will not affect the existing or future land use character of
5 Monroe County.
6
7 2. The proposed amendment is internally consistent with the Monroe County
8 Comprehensive Plan.
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10 3. The proposed amendment will allow a more comprehensive implementation of a
11 centralized wastewater service system throughout the unincorporated area of Monroe
12 County as required by Chapter 99-395, Laws of Florida.
13

14 VII RECOMMENDATION
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16 Staff recommends approval to the Monroe County Planning Commission
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18 VIII ATTACHMENTS
19

- 20 1. Citizen Comment Letter Dated 7/7/08 from Alicia Roemmele-Putney
21 2. Monroe County Code and Comprehensive Plan Citations
22 3. Ordinance No. 43-2001
23 4. Coastal Barrier Resources Act
24 5. Coastal Barrier Resources Act Reauthorization
25 6. Chapter 99-395, Laws of Florida
26 7. Resolution No. 179-2008
27 8. CBRS No Name Key Unit FL-50 Map
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